

808 KAR 12:050. Processing and closing charges for real estate loans to consumers.

RELATES TO: KRS 286.8-120(1), (2), (6)

STATUTORY AUTHORITY: KRS 286.8-120, 286.8-140(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.8-120(1) and (2) authorize a mortgage loan company to require a borrower to pay all necessary and reasonable expenses incurred in connection with a loan and all other necessary and incidental services rendered by the mortgage loan company or others. This administrative regulation requires the disclosure of fees paid, prohibits markups on certain services, and requires disclosure of ownership and control.

Section 1. All fees paid to or collected by a mortgage loan company or a mortgage loan broker in connection with a mortgage loan shall be disclosed as being paid to the mortgage loan company or mortgage loan broker, or lender on the closing disclosure for the mortgage loan. The disclosure shall clearly and unambiguously disclose the identity of the recipient of each fee.

Section 2. (1)(a) A mortgage loan company or mortgage loan broker shall not mark up the cost of services performed or goods provided by another settlement service provider if no work, nominal work, or duplicative work is performed.

(b) Services that may not be marked up shall include:

1. Appraisal fees;
2. Surveyor fees; and
3. Credit reporting fees.

(2) The following fees may be paid by the lender:

- (a) Premiums to loan companies and brokers; and
- (b) Yield spread premiums to loan companies and brokers.

Section 3. (1) If a mortgage loan company, mortgage loan broker, lender, or the stockholder of any of these entities owns any portion of or controls an entity, or entities, that perform services, provide goods, or receive payment for goods or services provided in connection with a mortgage loan, each entity shall be treated as a separate entity, as if not owned or controlled, for purposes of disclosure to the borrower.

(2) The existence of any ownership or control and the extent and nature of the ownership or control shall be clearly and unambiguously disclosed to the borrower.

(3) The disclosure shall meet the requirements as set out in the federal Real Estate Settlement Procedures Act, C.F.R. Part 1024.1 through 1024.41 ("RESPA"), and follow the prescribed disclosure format as set out in Appendix D of Part 1024 RESPA. (29 Ky.R. 2401; Am. 2901; 30 Ky.R. 284; eff. 8-13-2003; 45 Ky.R. 2206, 2911; eff. 5-3-2019.)